

# CHILD FRIENDLY JUSTICE IN EUROPE

CFJ-EN Handbook - Edition 2022



**CFJ-EN**

Child Friendly Justice  
European Network



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# Foreword

This first edition of the Handbook to promote child friendly justice (CFJ) has been prepared by the Operational Team of the CFJ-EN. It is the first in a series of annual handbooks on the effective adaptation of European justice systems (criminal, civil and administrative) to child friendly justice principles.

## What does this Handbook include?

This Handbook lists resources and tools developed by the CFJ-EN and its members (manuals, toolkits, position papers, training material, research reports, etc.), legislation and main case law on CFJ at regional level, as well as main events related to CFJ. It is made accessible to all, published in an online format, in English, on the website of the CFJ-EN ([www.cfjnetwork.eu](http://www.cfjnetwork.eu)).

## Why was this Handbook developed?

This Handbook provides a mapping of the legal framework applicable to child friendly justice and initiatives and resources, which will allow practitioners working with children to have an overview of the general context and to better orient their actions. While it does not pretend to be exhaustive, as it contains a selection of resources, it is well meant to be a “toolbox” for professionals where they can easily find a set of legal resources, as well as recent resources that were developed mainly by the members of the CFJ-EN in the framework of regional projects and initiatives. This toolbox aims to assist them in their decision-making processes. The CFJ-EN will regularly update this document, in close collaboration its members.

## Who is the Handbook for?

The Handbook has been designed for members of the CFJ-EN, as well as for any legal practitioner, judge, public prosecutor, child protection authority, social worker, probation officer, and organisation working with children and responsible for the protection of their rights when in contact with justice systems.

# About the CFJ-EN

The Child Friendly Justice European Network (CFJ-EN) was launched in 2019 informally by the Europe sections of Defence of Children International. Thanks to the formalisation of a Framework Partnership Agreement with the European Union, the CFJ-EN has been fully operational since April 2022. The CFJ-EN has, as of September 2022, 19 members in 17 countries in Europe. Its members include civil society organisations and research institutes.

The purpose of the CFJ-EN is to federate organisations across Europe, influence policies and legislations and disseminate information in relation to CFJ at European regional and national levels. The vision for the future is that children in Europe have access to age appropriate, inclusive and diligent services and practitioners equipped to implement child friendly justice. To implement this vision, it bases its work on the Convention on the Rights of the Child and aims to support the implementation of the Council of Europe Guidelines on child friendly justice, the European Directives on procedural safeguards and on victim's rights, as well as other key European instruments.

The CFJ-EN aims to:

1. **Empower and involve children**, in a meaningful way, to claim their rights and use their own experience to improve the justice system
2. **Build** the capacities of its members to deliver transdisciplinary trainings to professionals involved in the child justice system
3. **Strengthen** and further develop the CFJ-EN as a European network
4. **Advocate** at national and regional level for the strengthening of the capacities of the justice system to implement child friendly justice principles effectively



*A child surrounded by a system in which he/she is protected,  
listened to, safe* ”

(Romania: 17-year-old girl)

# Acronyms

The following table lists the various abbreviations and acronyms used throughout the Handbook.

<b>ACRONYM</b>	<b>MEANING</b>
AADH	Alliance des Avocats pour les droits de l'Homme
CFJ	Child Friendly Justice
CFJ-EN	Child Friendly Justice European Network
CoE	Council of Europe
CILSP	Centre of Integrated Legal Services and Practices
CJEU	Court of Justice of the European Union
CRC	Convention on the Rights of the Child
DCI	Defence for Children International
EC	European Commission
ECHR	Convention for the Protection of Human Rights and Fundamental (commonly known as European Convention of Human Rights)
ECtHR	European Court of Human Rights
EU	European Union
FRA	European Union Agency for Fundamental Rights
IJJO	International Juvenile Justice Observatory
LIL	Law Institute of the Lithuanian Centre for Social Sciences
SAPI	Social Activities and Practices Institute
TFEU	Fundamental Treaty of European Union
Tdh	Terre des hommes
UAC	Unaccompanied children
UN	United Nations
UNICEF	United Nations Children's Fund





# Glossary of key terms

## Binding and Non-Binding Instruments of the European Union

### Binding legal instruments

#### DIRECTIVE

The directive is a harmonisation instrument, a unilateral act that is binding on the EU Member States, which sets an objective to be achieved but leaves States free to choose how to do so, according to Article 288 TFUE. Thus, the directive calls for a national normative production at the level of the Member States to allow its implementation. In practice, the EU Member States adopt laws or circulars to implement the directive.

The EC proposes a directive to the Parliament and the Council of the European Union, which in turn dispose of and adopt this unilateral act. Furthermore, it is the Court of Justice of the European Union which ensures that the Member States comply with the directives, in particular their effective transposition. Transposition into national law must take place by the deadline set when the directive is adopted (generally within two years). When a country does not transpose a directive, the Commission may initiate [infringement proceedings](#).

#### REGULATION

The regulation is automatically and uniformly applied to all EU countries' legislation. Contrary to the directive, it is not necessary to transpose it into national law, under Article 288 TFUE. Two types of regulations exist: a. regulations adopted by the Council of the EU (Council of Ministers) alone or with the European Parliament on a proposal from the EC; and b. regulations adopted by the Commission, under its own authority or pursuant to decisions of the Council of the EU.

#### DECISION

A decision is legally binding act in its entirety. Unless explicitly stated otherwise, a decision is binding for the EU as a whole. Decisions can address specific legal entities, in which case a decision is binding only to them. In its current form the decision was introduced with the Lisbon Treaty that came into force December 2009. It replaces various legal instruments introduced by earlier Treaties.

## TREATY

Treaties are legally binding agreements between countries on any given subject. Treaties are subject to international law.

## ACT

An act is an instrument in writing to verify a legislative act. In the European Union acts are sometimes used as foundation for treaties that might enter into the legislative process at a later date.

## PROTOCOL

A protocol is annexed to a treaty and stipulates detailed measures or actions on a specific part of that treaty. When signatory parties enter into a treaty they are also bound to any protocols governed by the treaty.

## DELEGATED ACT

To modify non-essential parts of EU legislative acts (decisions, directives, regulations) the Commission can use delegated acts. It may be useful to define detailed measures. The Commission adopts the act. It will enter into force insofar as the Parliament and Council have no objections.

## IMPLEMENTING ACT

The European Commission uses implementing acts (decisions, directives, regulations), which are legally binding acts, to set conditions that ensure that EU laws are applied uniformly by Members States.

## Non-binding instruments

### RECOMMENDATION

The recommendation allows EU institutions to make their views known and to suggest a line of action in each field.

### OPINION

EU institutions can use the opinion to make a statement, to explain a point of view without imposing any legal obligation.

### GUIDELINE

Guidelines are non-binding acts that set out a framework for future acts in a policy area. These frameworks tend to be broad in scope and stated in general terms, and the 'future acts' often take the form of legally binding instruments. The EU issues guidelines in a limited number of policy areas.

## COMMUNICATION

The communication used by the European Commission is a soft law act. It has an indicative value for interpreting primary and secondary legislation of the European Union. The political dimension aims to record changes in the position of the authorities on a specific issue.

## DECLARATION

By means of a declaration the institutions of the European Union relate their point of view on a specific topic. A declaration is not used to initiate legislative processes, nor is it used to publicise concrete programmes. The EU rarely uses declarations.

## EUROPEAN PARLIAMENT RESOLUTION ON THE SITUATION OF FUNDAMENTAL RIGHTS IN THE EU

Following up on the work of the Committee on Civil Liberties, Justice and Home Affairs, Members of Parliament regularly discuss and adopt resolutions in the European Parliament's plenary sessions on the situation of fundamental rights in the EU and on specific issues concerning the protection of these rights in the Member States.

## GREEN PAPER

By means of a green paper the European Commission attempts to initiate a debate about possible future policies in a given area. Eventually, a green paper may serve as a basis for later legislative proposals.

## WHITE PAPER

By means of a white paper the European Commission initiates debate on new policies it intends put forward at a later stage. White papers tend to be detailed documents and usually serve as basis for one or more legislative proposals.

## REPORT

Reports are issued by the European Commission to report and assess current policies. A report may provide a basis for policy development.

## WORKING PAPER

Working papers or working documents by the European Commission cover a wide variety of affairs, but are always geared towards providing information on certain policies, programmes and legislative proposals or in support of current policies. Working papers issue neither policies nor actions.

## Key Institutions at Regional Level

### European Union

#### COUNCIL OF THE EUROPEAN UNION

The Council of the European Union is made up of one minister of each Member State of the EU. It is the executive body of the EU. It can amend, adopt or reject a measure modified by the European Parliament, by qualified majority. Moreover, each State has a particular weight in the vote according to its population.

#### COURT OF JUSTICE OF THE EUROPEAN UNION

The European Union has a legal personality since the entry into force of the [Treaty of Lisbon](#) on 1 December 2009 and it is the regional judicial institution. It is composed of two courts: the Court of Justice and the General Court. The main task of the CJEU is to ensure that EU law is applied and interpreted uniformly in every country. Administrations and national courts have the obligation to recognise the primacy of EU legislation over national law and to apply it in every sphere of competence in order to protect the rights conferred on citizens by that law. This is called “direct applicability”.

#### EUROPEAN COMMISSION

The European Commission is composed of one commissioner from each of the 27 Member States (including the chairperson) appointed for five years. Its main function is to initiate legislative initiatives, as holder of the right of initiative, influenced by the other European institutions as the European Council and the European Parliament. In this way, it contributes to the direction of the Union’s actions, which are set out in the State of the Union address by the chair. It proposes measures in all areas of EU competence. Finally, it is the guardian of the legality of acts and treaties because it can sanction a Member State that does not respect them.

#### INSTITUTIONS

The European Council is composed of the heads of states of all European countries, the President of the European Council and the President of the European Commission. The main competence is on the general political direction and priorities of EU. Furthermore, it can ask the EU Commission to make a proposal to address it and pass it on to the Council of the European Union to examine it.

## EUROPEAN PARLIAMENT

The European Parliament is elected by direct universal suffrage every five years. It is composed of 705 members from all Member States. It represents European citizens. Its main role is to amend and vote on Commission proposals, jointly with the Council of the European Union, as well as the EU budget. In addition, it has a right of initiative, under Article 225 TFEU, which allows it to ask the Commission to propose legislation.

## THE COMMITTEE OF THE REGIONS

The Committee draws its powers from Article 13.4 TEU and Articles 300 and 305 to 307 TFEU. It is a political assembly composed of 329 holders of a regional or local electoral mandate serving the cause of European integration. The Committee of the Regions ensures the implementation of EU policies and actions at local level, such as the European Commission's strategies and it makes them more effective.

## THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS (FRA)

The FRA collects and analyses law and data on fundamental rights to help policymakers understand how they can do more for their citizens and make the rights of the child, one of the agency's areas of expertise, more effective.

## Council of Europe

### COUNCIL OF EUROPE

The Council of Europe is an international organisation founded in 1949 since the entry into force of the [Treaty of London](#) with 46 Members States and 6 States with an Observer status. Its objective is to protect democracy and human rights, and to promote European unity by fostering cooperation on legal, cultural, and social issues. The year following its creation, the most important treaty to protect the rights and liberties of the citizens, the European Convention on Human Rights (ECHR), was adopted.

### EUROPEAN COURT OF HUMAN RIGHTS (ECtHR)

The European Court of Human Rights was established in 1959. Its main mission is to ensure observance of the ECHR. In particular. The ECtHR hears applications alleging that a contracting state has breached one or more of the human rights provisions concerning civil and political rights set out in the ECHR and its protocols. An application can be lodged by an individual, a group of individuals or one or more of the other contracting states, and, besides judgments, the Court can also issue advisory opinions. Its judgments are binding on the states concerned. It is composed of 47 judges, one from each Member State.

# 01

## COMPILATION OF RESOURCES ON CHILD FRIENDLY JUSTICE



The compilation below aims to provide the reader with useful tools and resources, in a unique and accessible format.

You will find below publications produced by our members or to which they contributed to, as well as other key resources from other organisations or institutions. This compilation includes the following:



Websites



Research documents



Online training tools and courses



Manuals, Guidelines, Handbooks



Advocacy documents



Toolkits



Other online instruments





## Websites

TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
<a href="http://www.lachild.eu">www.lachild.eu</a>	LA Child (2020-2021) My lawyer, my rights (MLMR) (2016-2018)	Legal assistance - children in conflict with the law	DCI Belgium
<a href="http://www.cfjnetwork.eu/">www.cfjnetwork.eu/</a>	Child Friendly Justice – European Network (CFJ-EN)	Mutual learning – research – advocacy - awareness raising - training on child friendly justice	DCI Belgium
<a href="http://focus.justicewithchildren.org">focus.justicewithchildren.org</a>	FOCUS: working together for children in criminal proceedings (2020-2021)	Individual assessments	Tdh Europe
<a href="http://www.euforumrj.org/en/irestore-2019-2021">www.euforumrj.org/en/irestore-2019-2021</a>	i-Restore: Protecting child victims through restorative justice (2019-2021)	Restorative justice - child justice – European reviews – Albania – Romania – Greece – child victims	EFRJ, Tdh Europe
<a href="http://www.childrensrightsbehindbars.eu/">www.childrensrightsbehindbars.eu/</a>	Children's rights behind bars (2014-2018)	Monitoring detention – children deprived of liberty – preventive and child right based approach	DCI-Belgium

## Research documents

TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
<a href="#">Legal aid for children in conflict with the law in international and European instruments</a>	<i>LA Child (2020-2021)</i>	International law - legal aid for children in conflict with the law	Law Institute of the Lithuanian Centre for Social Sciences, DCI Belgium, Centre of Integrated Legal Services and Practices (CILSP)
<a href="#">Legal aid for children in criminal proceedings: report on current European national frameworks</a>		Legal aid for children – children in conflict with the law	
<a href="#">National reports on Legal aid for children in conflict with the law (2020)</a>		National overviews – legal aid for children – children in conflict with the law	
<a href="#">Child migrants and Child-friendly administrative justice procedures (2020)</a>	<i>Child Friendly Justice – In Action! (2018-2020)</i>	Children in migration - administrative justice	DCI Belgium, Greece, Spain, France, Czechia, The Netherlands, World Service
<a href="#">Implementing the Council of Europe Guidelines on Child-Friendly Justice in Procedures Related to Migration (2020)</a>		Justice proceedings – children deprived of liberty – child friendly proceedings - migration procedures - children in migration	
<a href="#">Various thematic Reports</a>		Institutional care – children in conflict with the law – access to justice - COVID	European Network of Ombudspersons of Children (ENOC)

<p><a href="#">Mapping child participation in Barnahus in Europe – Survey results 2021</a></p>	<p><i>Promise (2015-2022)</i></p>	<p>Child victims – Barnahus - child participation - children's right to be heard – mapping of practices</p>	<p>Barnahus Network: Council of the Baltic Sea States, Child Circle, Hope for Children (HPC), Stiftelsen Allmannas Barnhuset, TUSLA, Empowering Children Foundation, SAPI, Finnish institute for health and welfare, Republika Slovenija Ministrstvo za pravosodje, AvBIT LABSn, BONIGI, Tdh Europe</p>
<p><a href="#">Twelve: national reports (Belgium, Italy and Spain) (2015)</a></p>	<p><i>Twelve Project (2014-2016)</i></p>	<p>Children's right to be heard – participation to have policy and practice more appropriate and effective</p>	<p>DCI-Belgium, Italy, Spain</p>
<p><a href="#">The impact of COVID-19 on Children's Access to Justice (2021)</a></p>		<p>Procedures or services for children in contact with the law – COVID 19 – access to justice</p>	<p>UNICEF</p>
<p><a href="#">Technical Note: COVID-19 and Children Deprived of their Liberty (2021)</a></p>		<p>Well-being - healthy development - adequate care - COVID-19 - children deprived of liberty</p>	<p>UNICEF, The Alliance for Child Protection in Humanitarian Action</p>
<p><a href="#">Core competencies for personnel working with children deprived of liberty (2021)</a></p>		<p>Children deprived of liberty – capacity building – core competencies – International Bureau of Children's Rights</p>	

<p>European Research report on the application of restorative justice in cases involving child victims (2020)</p>	<p><i>i-RESTORE - Better Protecting Child Victims Rights through Restorative Justice (2019-2021)</i></p>	<p>Restorative justice and practices – child friendly justice</p>	<p>Tdh Europe, EFRJ</p>
<p><u>Research report on the application of restorative justice in cases involving child victims in Romania (2020)</u></p>			
<p><u>Research report on the application of restorative justice in cases involving child victims in Albania (2020)</u></p>			
<p><u>Research report on the application of restorative justice in cases involving child victims in Greece (2020)</u></p>			
<p><u>European Model of Restorative Justice with Juveniles (2014)</u></p>	<p>Restorative Justice – European models – Children in contact with the justice system</p>	<p>IJJIO</p>	
<p><u>Children in Contact with the Law in Europe: Trends and Opportunities (2021)</u></p>	<p>Child-centred policies – legislative frameworks – situations &amp; needs of children in criminal proceedings</p>	<p>Tdh Europe</p>	

<p><u>Children in conflict with the law. Review of Diversion in the Juvenile Justice Systems of Belgium, Bulgaria, Croatia, Hungary and Romania (2018)</u></p>	<p><i>Away Project (2017-2019)</i></p>	<p>Children in conflict with the law systems of Belgium, Bulgaria, Croatia, Hungary and Romania</p>	<p>Tdh Europe, Brave Phone, PDJS, IJJO, DCI-Belgium, PILnet, Pressley Ridge</p>
<p><u>Report summary on access to Justice for Children with Mental Disabilities (2015)</u></p>	<p><i>Access to Justice for Children with Mental Disabilities (2013-2015)</i></p>	<p>Children with disabilities - access to justice for children - rights to a remedy – people with disabilities</p>	<p>Validity Foundation (ex-MDAC)</p>
<p><u>Barriers children with mental disabilities face in accessing justice in various countries (2015)</u></p>	<p>Country-specific factsheets – six European countries – young offenders under the age of 18 – participation – education</p>	<p>Access to justice to children with mental disabilities – within the European context – child friendly justice – participation - national law, policy and monitoring frameworks and processes indicators</p>	<p>European and international guidance on data collection, national researchers - children with mental disabilities in the justice system</p>
<p><u>International Standards and Findings from Ten EU Member States (2015)</u></p>	<p>15 recommendations – children with mental disabilities in contact with the law</p>	<p>The collection and Dissemination of data: Guidance report (2015)</p>	<p></p>

## Online training tools and courses



TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
<a href="#">MOOC on Children Deprived of Liberty: Learning from the UN Global Study</a>		children deprived of liberty - detention - alternatives to detention - child justice	Global Campus of Human Rights
<a href="#">HELP Online Courses and Programmes</a>		Children's rights – child friendly justice – children in migration – human rights	Council of Europe
<a href="#">E-learning on Protecting Child Victims Through Restorative Justice</a>	<i>i-Restore: Protecting child victims through restorative justice (2019-2021)</i>	Child victims – restorative justice	EFFR, Tdh Europe
<a href="#">Individual assessment – a gateway to a child-centred justice</a>	<i>Focus (2020-2021)</i>	Individual assessments – children in conflict with the law	Tdh Europe, SAPI, DCI Netherlands, Child Circle, Child Rights Centre
<a href="#">A training manual for care professionals working with children in alternative care</a>		Alternative care – international standards and principles surrounding children's rights – participation – best interests of the child – non discrimination	SOS Children's villages
<a href="#">Access to justice for migrant children in the EU</a>	<i>FAIR Project (Fostering Access to justice for immigrant children's rights)</i>	Access to justice – Migrant children	International Commission of Jurists

<p><u>Training of lawyers representing children in criminal, administrative and civil justice</u></p>	<p><i>TRACHILD</i></p>	<p>Children in justice system – criminal justice – civil justice – administrative justice</p>	<p>European Lawyers-Foundation</p>
<p><u>Strengthening the capacity of professionals in the EU to fulfil the rights of vulnerable children</u></p>	<p><i>Unlocking Children's Rights</i></p>	<p>Vulnerable children, capacity building</p>	<p>Coram International</p>
<p><u>Ending Child Detention</u></p>		<p>Child detention – alternatives to immigration detention</p>	<p>International Detention Coalition</p>
<p><u>Courses and support related to the protection of child victims</u></p>	<p><i>Promise (2015-2022)</i></p>	<p>Child protection – children's rights and procedural safeguards – child victims – child abuse and neglect – interdisciplinarity – Forensic interview – interviewing children – trauma-based focused cognitive behavioural therapy – forensic medical – quality standards – medical evaluations</p>	<p>Barnahus Network: Council of the Baltic Sea States, Child Circle, Hope for Children (HPC), Stiftelsen Allmanna Barnhuset, TUSLA, Empowering Children Foundation, SAPI, Finnish institute for health and welfare, Republika Slovenija Ministrstvo za pravosodje, AVBIT LABSn, BONIGI, Tdh Europe</p>
<p><u>Various Child Hub courses on child protection</u></p>		<p>Protection – humanitarian situations – Restorative justice – Child safeguarding – alternative care – violence – restorative justice migration &amp; asylum - diversion</p>	<p>Child Hub – Tdh Europe</p>
<p><u>Access to Justice for Children with Mental Disabilities training materials</u></p>	<p><i>Access to Justice for Children with Mental Disabilities (2013-2015)</i></p>	<p>Access to justice rights for children – key professionals working in the justice system</p>	<p>Validity Foundation (ex-MDAC)</p>

<u>IDEA Child Rights</u>	<i>IDEA Project (2017-2019)</i>	Children in conflict with the law – children's rights – child health	University College Cork
<u>Getting Care Right for All Children: Implementing the UN Guidelines for the Alternative Care of Children &amp; Caring for Vulnerable Children</u>		UN Guidelines – alternative care – child participation – family reunification - deinstitutionalisation	University of Strathclyde Glasgow, Centre for excellence for Children's Care and Protection
<u>Children's Human Rights - An Interdisciplinary Introduction</u>		Children's rights	University of Geneva
<u>Children's Rights in Theory and Practice</u>		Children's rights	Harvard University
<u>Resilience in Children Exposed to Trauma, Disaster and War</u>		Violence – protection – trauma – resilience – children abuse and neglect	University of Minnesota
<u>Protecting Children in Humanitarian Settings</u>		Humanitarian crises – health – protection - participation	Columbia University
<u>Child Protection for Teachers</u>	<i>Project TALE: Training Activities for Legal Experts</i>	Child's voice in proceedings Protection – education	Queensland University of Technology
<u>Improving legal practice with children and young people.</u>	<i>Project TALE: Training Activities for Legal Experts</i>	Child's voice in proceedings	University of Liverpool



## Manuals, Guidelines, Handbooks



TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
<p>Practical Guide for Lawyers: How to defend a child in conflict with the law? (2018)</p>	<p>My lawyer, my rights (MLMR) (2016-2018)</p>	<p>Child in conflict with the law – role of the lawyer for children – proceedings</p>	<p>DCI Belgium, Italy, Netherlands, Child Circle (Belgium), Bulgarian Helsinki Committee (Bulgaria), Child Law Clinic of the University College Cork (Ireland), Helsinki Foundation for Human Rights (Poland)</p>
<p>Manual for EU Member states: How to ensure the rights of children in conflict with the law? (2018)</p>		<p>Children's rights – child in conflict with the law – minimum age of criminal responsibility – child friendly justice system</p>	
<p>Lawyers defending children in conflict with the law: international practical guide (2018)</p>		<p>Role of the lawyer for children in criminal proceedings – role of the lawyer for children – proceedings</p>	
<p>Hard law &amp; Soft law: International and regional standards regarding juvenile justice (2018)</p>		<p>Representation – information – participation – privacy life – the best interests of the child</p>	
<p>Juvenile Justice Training Manual: Facilitator's guide and participant's materials (2006)</p>		<p>Restorative justice, child friendly justice, standards of care</p>	<p>UNICEF</p>

<p><u>Practical guide - Monitoring places where children are deprived of liberty (2014)</u></p>	<p><i>Children's Rights Behind Bars 1 &amp; 2 (2014-2018)</i></p>	<p>Monitoring mechanisms of places of detention – children deprived of liberty</p>	<p>DCI Belgium, France, Italy, Netherlands, Ludwig Boltzmann Institute of Human Rights (Austria), Institute of Social Studies of the University of Tartu (Estonia), Irish Penal Reform Trust (Ireland), Ombudsman's Office of the Republic (Latvia), National association of educative and social communities (Luxembourg), Helsinki Foundation for Human Rights (Poland), Research Centre CICOP, West University in Timisoara (Romania), Proyecto Solidario (Spain)</p>
<p><u>Guide for Parliamentarians: Visiting places where children are deprived of their liberty as a result of immigration procedures (2017)</u></p>	<p>Administrative detention of children – alternatives to administrative detention – children deprived of liberty - monitoring</p>	<p>Participation of children deprived of liberty - reintegration process</p>	<p>International Institute for Child Rights and Development, Films for All</p>
<p><u>Handbook: Reintegration and Rights from a participatory perspective - Innovative practice examples in EU countries (2018)</u></p>	<p><i>The Quest</i></p>	<p>Child participation - child well-being - children's mental health - social work - child protection worker</p>	<p>International Institute for Child Rights and Development, Films for All</p>
<p><u>A Guide for Child Support Workers to Better their Professional Practice &amp; E-module co-created with children (2021)</u></p>	<p><i>Twelve Project (2014-2016)</i></p>	<p>Participation – child-rights based approach – justice system</p>	<p>DCI-Italy, Belgium, Spain, Pulse Foundation Bulgaria, University of Tartu Estonia, ARSIS Greece</p>
<p><u>Children's right to participation and the juvenile justice system: Theory &amp; Practices for implementation (2016)</u></p>			

<p><u>Barnahus Quality Standards: Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence (2017)</u></p>	<p><i>Promise (2015-2022)</i></p> <p>Child abuse and neglect – multidisciplinary approach - best interests of the child – Right to be heard and receive information – Avoiding Undue Delay – Child friendly environment – Medical examination</p>	<p>Barnahus Network: Council of the Baltic Sea States, Child Circle, Hope for Children (HPC), Stiftelsen Allmanna Barnhuset, TUSLA, Empowering Children Foundation, SAPI, Finnish institute for health and welfare, Republika Slovenija Ministrstvo za pravosodje, AvBIT LABSn, BONIGI, Tdh Europe</p>
<p><u>Guidelines For Child-Friendly Legal Aid for children in conflict with the Law – Recommendations and Inspiring Practices Aimed at Legal Aid Providers and Policy Makers (2021)</u></p>	<p><i>LA Child (2020-2021)</i></p> <p>Child friendly justice system – legal aid – children in conflict with the law</p>	
<p><u>Know your rights – Guide for minors in conflict with the law (2021)</u></p>	<p>Child friendly information document – right to information – children in conflict with the law</p>	<p>Law Institute of the Lithuanian Centre for Social Sciences, DCI Belgium, Centre of Integrated Legal Services and Practices (CILSP)</p>
<p><u>Various handbooks, manuals for professionals on children in conflict with the law</u></p>	<p>Justice – social inclusion of child in conflict with the law – specialised programmes – individual assessments - probation</p>	<p>SAPI Bulgaria</p>

<p><u>Guidelines to Enhance Child Participation and Work with Youth on Child Advisory Boards (2019)</u></p>	<p>AWAY Project (2017-2019)</p>	<p>Child advisory board – child participation – children in conflict with the law</p>	<p>Tdh Europe, Brave Phone, PDJS, IJJO, DCI-Belgium, PILnet, Pressley Ridge</p>
<p><u>Give me a chance, but a real one: How to improve the reintegration of children in conflict with the law (2020)</u></p>		<p>Frameworks – UAC - practices - restorative justice - reintegration</p>	<p>Tdh Europe</p>
<p><u>Child friendly court guidelines for personal status courts in Lebanon (2020)</u></p>		<p>Judicial proceedings</p>	<p>Tdh Europe</p>
<p><u>Guidelines on children in contact with the justice system (2017)</u></p>		<p>Participation – judicial proceedings (before, during and after)</p>	<p>IAYFJM</p>
<p><u>Operational guidelines for professionals interacting with children in conflict with the law during COVID-19 (2020)</u></p>	<p><i>Global initiative on Justice with Children</i></p>	<p>Security forces – Legal professionals – Social Workforce – interdisciplinary approach – COVID-19 – process of reintegration</p>	<p>Baker McKenzie, Tdh Europe, International Bureau for Children's Rights, Penal Reform International</p>
<p><u>Operational Guidelines: Social Workforce (2020)</u></p>		<p>Child protection – wellbeing – support and accompaniment – COVID-19 – detention - security forces and professionals – child in conflict with the law</p>	
<p><u>Operational Recommendations for Legal Professionals (2020)</u></p>		<p>The rights of children deprived of liberty – COVID-19 – safe environment – appropriate caretaker – advocacy</p>	

<p><u>Operational Guidelines for Security Forces Access to Justice for Children and Youth in Times of COVID-19</u>  <u>Diverting Children from Judicial Proceedings and Facilitating Reintegration (2020)</u></p>	<p>Children deprived of liberty during COVID-19 – child protection – interdisciplinary approach – principles of action during COVID-19 health emergency</p>
<p>Global initiative on Justice with Children</p>	<p>Global initiative on Justice with Children</p>
<p><u>Quality Standards for legal assistance for children suspected and/or accused – A step-by-step guide (2022)</u></p>	<p><i>CLEAR-Rights (2021-2022)</i></p> <p>Children in conflict with the law – legal assistance – 14 quality standards</p> <p>Tdh Europe, Romania, AADH, DCI-Belgium, ECPAT The Netherlands, PILnet</p>
<p><u>FOCUS Standards – Individual assessment – a gateway to a child centered justice (2021)</u></p>	<p><i>FOCUS (2020-2021)</i></p> <p>Criminal proceedings – individual assessments – the child and the practitioners’ perspectives</p> <p>Tdh Europe, SAPI, DCI Netherlands, Child Circle, Child Rights Centre</p>

## Advocacy documents



TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
<a href="#">Just with Children. Child-friendly justice for all children in Europe. (2020)</a>		Children's rights in justice systems - EU Strategy on the rights of the child (2021-2024) – judicial proceedings	Tdh Europe, International Bureau for Children's Rights, Center za prava deteta, Serbia, DCI Belgium , DCI The Netherlands, EFRJ, IAYFJM, Leiden Law School, Ludwig Boltzmann Institute of Fundamental and Human Rights, Penal Reform International, Restorative Justice Netherlands, SAPI Bulgaria
<a href="#">Recommended Minimum Accreditation Criteria for Lawyers Defending Children in Conflict with the Law (2022)</a>	<i>CLEAR-Rights (2021-2022)</i>	Legal assistance – children suspected, accused or convicted	Tdh Europe, PILnet Hungary, AADH France, DCI-Belgium, TdH Romania, DCI - ECPAT Netherlands
<a href="#">Accelerate release of children from detention: protect children from COVID-19 (2020)</a>	<i>Global Initiative on Justice with Children</i>	Detention of children in the administration of justice – caregivers – migration-related detention – institutions – armed conflict	Tdh & Baker McKenzie
<a href="#">Joint Position Paper EU Strategy on the rights of the child (2021-2024) (2020)</a>		Restorative justice, practices and culture – participation – capacities building – child friendly justice	Tdh Europe & EFRJ



## Toolkits

TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
<a href="#">Toolkit on diversion and alternatives to detention (2009)</a>		Child Protection – Child abuse and neglect – Migration – unaccompanied children – Family separation – alternative care – judicial proceedings – diversion – alternatives to detention	UNICEF
<a href="#">Can anyone hear me? Improving juvenile justice systems in Europe: A toolkit for the training of professionals (2017)</a>		Restorative justice – judicial proceedings – respect of the rights of the child in conflict with the law – capacity building	International Juvenile Justice Observatory (IJJO)
<a href="#">Toolkit for Professionals: Implementing a European Model for Restorative Justice with Children and Young People (2015)</a>		Criminal justice system – restorative justice at school	IJJO & European Council for Juvenile Justice
<a href="#">CFJ-IA: A toolkit for mainstreaming child friendly principles when working with children involved in administrative and judicial procedures (2020)</a>	<i>Child Friendly Justice – in action! (2018-2020)</i>	Children’s opinions on migration related administrative justice procedures	DCI Belgium, France, Spain, Czechia, Greece, Netherlands, Italy
<a href="#">Uncomfortable Data: Ending Deprivation of Liberty of Migrant Children through Improved Data (2021)</a>		UN Global Study on Children Deprived of Liberty – international legal framework	Global Campus of Human Rights

## Other online instruments



TITLE	PROJECT	TOPIC	LEAD / AUTHOR(S)
<a href="#">Q&amp;A on Restorative Justice: Key Concepts and Frequently Asked Questions (2020)</a>	<i>i-RESTORE - Better Protecting Child Victims Rights through Restorative Justice (2019-2021)</i>	Child-victim friendly restorative justice – protection	Tdh Europe, European Forum for Restorative Justice, Restorative justice Netherlands
<a href="#">Romanian i-RESTORE Child Advisory Board created and promoted info materials on restorative justice for children.</a>			
<a href="#">Restorative Justice and Child Justice Thematic Brief (2020)</a> <a href="#">Interview (2020)</a>		Restorative justice – children in conflict with the law – child friendly justice and procedures	EFRJ
<a href="#">Building a Culture of Participation in Barnahus: Implementing Children's Right to Participate in Decision-Making (2021)</a>	<i>Promise (2015-2022)</i>	Collective child participation – children's right to be heard	Barnahus Network: Council of the Baltic Sea States, Child Circle, Hope for Children (HPC), Stiftelsen Allmanns Barnhuset, TUSLA, Empowering Children Foundation, SAPI, Finnish institute for health and welfare, Republika Slovenija Ministrstvo za pravosodje, AvBIT LABSn, BONIGI, Tdh Europe



<p><u>Compendium of international instruments applicable to juvenile justice (2014)</u></p>	<p>Children deprived of liberty – child friendly justice – international legal framework – legal aid – children's victims</p>	<p>IPJJ &amp; Tdh Europe</p>
<p><u>Compendium on child-friendly justice and children's rights (2012)</u></p>	<p>Justice – protection – child friendly justice principles</p>	<p>Child Rights International Network (CRIN)</p>
<p><u>Rights of children in contact with the law: initial assessment (2022)</u></p>	<p>Videos - Rights of children in contact with the law</p>	<p>Tdh Europe, Romania, Hellas, Child Circle Serbia, / DCI The Netherlands, SAPI Bulgaria</p>
<p><u>Various training materials on child protection</u></p>	<p>General principles – protecting child's rights in international and European context in justice settings – the right to be heard – interacting with children in legal situations</p>	<p>Academy of European Law</p>



# 02

## KEY LEGAL STANDARDS AND CASE LAW ON CHILD FRIENDLY JUSTICE



Child friendly justice has its sources in international law, mainly the Convention on the Rights of the Child. It is good to remember that beyond the Child Friendly Justice Guidelines of the Council of Europe, there is a multitude of legal norms and case law in Europe that are directly related to child friendly justice. Thus, they are a strong basis in Europe for a better implementation of child friendly justice principles at local level. The list below does not aim to be exhaustive, but offers a selection of relevant documents.

## 2.1 International Framework

When mentioning the “international framework” we are mainly referring to rules, principles, standards developed by the United Nations bodies and agencies.

The [United Nations Convention on the Rights of the Child \(CRC\)](#) sets out the civil, political, economic, social, health and cultural rights of children. Some articles are particularly relevant for child friendly justice:

- The Preamble of the Convention
- Article 2 on non-discrimination
- Article 3 on the best interests of the child
- Article 4 on ensuring that children’s rights are respected, protected and fulfilled
- Article 10 on family reunification
- Article 16 on protection of privacy
- Article 19 on violence, abuse, neglect
- Article 20 relating to children without families
- Article 22 on refugee children
- Article 24 concerning the right to a good quality of life
- Article 25 on review of a child’s placement
- Article 37 concerning children deprived of liberty
- Article 38 on children in armed conflict
- Article 39 concerning reintegration and recovery of a child victim
- Article 40 on the administration of child justice

There are other key **UN human rights conventions**, such as the [International Covenant on Civil and Political Rights](#) and the [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment](#). They also contribute to shaping the

international framework on child friendly justice. As they are binding for the States that have ratified them, these Conventions and related monitoring bodies are key for implementing child friendly justice.

To guide and foster the implementation of the rights enshrined in the CRC, the [Committee on the Right of the child](#), publishes [General Comments](#). While all may be connected to some aspect of child friendly justice, some of them are particularly relevant to guide any work on child friendly justice:

- [General Comment No. 6](#) on the treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6)
- [General Comment No. 12](#) on the right of the child to be heard (CRC/GC/2009/12)
- [General Comments No. 14](#) on the right of the child to have his or her best interests taken as a primary consideration (CRC/GC/2013/14)
- [Joint general comment No. 4](#) (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (CRC/GC/2017/23)
- [General Comment No. 24](#) on children's rights in juvenile justice (CRC/GC/2019/24), replacing General Comment No. 10

**Resolutions** adopted by the UN General Assembly also contain guidelines, principles, rules and standards applicable to child friendly justice. These resolutions are not legally binding but provide important recommendations to States. These include:

- [United Nations Guidelines for the Alternative Care of Children \(2010\)](#)
- [United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime \(2005\)](#)
- [United Nations Guidelines for the Prevention of Juvenile Delinquency \(The Riyadh Guidelines\) \(1990\)](#)
- [United Nations Rules for the Protection of Juveniles Deprived of their Liberty \(Havana Rules\) \(1990\)](#)
- [United Nations Standard Minimum Rules for Non-custodial Measures \(The Tokyo Rules\) \(1990\)](#)
- [United Nations Standard Minimum Rules for the Administration of Juvenile Justice \(The Beijing Rules\) \(1985\)](#)

In September 2015, the UN General Assembly endorsed the [Sustainable Development Goals](#) - the pursuit of **SDG 16 (peace, justice and strong institutions)** is strongly linked to child friendly justice and particularly includes access to justice for children.

In December 2018, the UN General Assembly endorsed the [Global Compact for Safe, Orderly and Regular Migration](#) following its adoption by the majority of UN Member States. The Global compact is related to child friendly proceedings for children in migration.

Other relevant **publications** for child friendly justice were released by various UN bodies and agencies:

- [UNODC Handbook on Restorative Justice \(2020\)](#)
- [UN Global Study on Children Deprived of Liberty \(2019\)](#)
- [SRSG Report on Violence against Children, "Prevention of and responses to violence against children within the juvenile justice system" \(2012\)](#)
- [UN Human Rights Council Resolution on Human Rights in the Administration of Justice, in particular Juvenile Justice \(2011\)](#)
- [Guidance Note of the United Nations Secretary-General: United Nations Approach to Justice for Children \(2008\)](#)
- [UNODC Guidelines for Action on Children in the Criminal Justice System \(The Vienna Guidelines\) \(1997\)](#)

The [Yogyakarta Principles](#) on international human rights standards and their application to sexual orientation and gender identity issues were created by a group of 29 human rights experts of the International Commission of Jurists (ICJ) in November 2006. They address the application of international human rights law in relation to sexual orientation and gender identity. The Principles were launched as a global charter at the United Nations Human Rights Council on 26 March 2007. It was complemented in 2017 by the [Yogyakarta Principles plus 10](#).

## 2.2 European framework

In Europe, instrumental standards on child friendly justice have been adopted both in the framework of the European Union and the Council of Europe. The following norms - soft and hard law - outline child friendly justice. They are important tools to work towards justice systems that are effectively child friendly at national level. These standards are of particular importance because they represent the level of commitment of European institutions in implementing children's rights. Each of them, whether binding or not, does have an impact on the legislation of Member States.

### 2.2.1 European Union

Several types of EU standards are applicable in the field of child friendly justice. Their effects and the way they are applied within the Member States are diverse. Firstly, we have classified the instruments according to the EU institution that developed them (part. 2.2.1.1). Secondly, they are classified by topics to offer an easy overview of how European standards on specific issues relate to child friendly justice.

#### 2.2.1.1 Overview of EU instruments relating to child friendly justice

The European Parliament and the Council adopted two leading directives to protect children and impose safeguards in the field of child friendly justice:

- [Directive 2012/29/EU](#) establishing minimum standards on the rights, support and protection of victims of crime (Victim's Rights Directive)
- [Directive \(EU\) 2016/800](#) on procedural safeguards for children who are suspects or accused persons in criminal proceedings (Procedural Safeguards for Children Directive)

Moreover, there are other relevant directives and regulations apply to all persons in contact with the justice system, including children, inter alia:

- [Directive 2003/86/EC](#) on the right to family reunification (Family Reunification Directive)
- [Directive 2008/52/EC](#) on certain aspects of mediation in civil and commercial matters
- [Directive 2008/115/EC](#) on the return of illegally staying third-country nationals (Return Directive)

- [Directive 2010/64/EU](#) on the right to interpretation and translation
- [Directive 2012/13/EU](#) on the right to information
- [Directive 2013/32/EU](#) on granting and withdrawing international protection (Asylum Procedures Directive)
- [Directive 2013/33/EU](#) on the reception of applicants for international protection (Reception Conditions Directive)
- [Directive 2013/48/EU](#) on the right of access to lawyers and rights in the context of deprivation of liberty
- [Directive \(EU\) 2016/1919](#) on legal aid
- [Directive \(EU\) 2016/343](#) on the right to be present at the trial in criminal proceedings
- [Brussels I Regulation \(44/2001\)](#) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters
- [Brussels IIter Regulation \(2019/1111\)](#) on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast)

The European Commission regularly adopt strategies, which aim to propose key areas of work for European Member States, such as the EU Strategy on the Rights of the Child. Furthermore, the EC ensures the implementation of EU policies and actions in the Member States through the Committee of the Regions and the European Economic and Social Committee to promote dialogue with local and regional authorities and civil society.

To encourage Members States to implement EU law, the European Commission has adopted the following strategies that are, to different extent, related to justice for children:

- [The EU Strategy on the rights of the child \(2021-2024\)](#), namely Chapter 4 on CFJ
- [The EU Strategy on victims' rights \(2020-2025\)](#)
- [The Union of Equality: LGBTIQ Equality Strategy 2020-2025](#)
- [The Gender Equality Strategy \(2020-2025\)](#)
- [The European Judicial Training strategy for 2021-2024](#)
- [Regulation on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility \(2201/2003/EC\)](#)
- [Council Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations \(4/2009/EC\)](#)



- [The 2017 Communication on the protection of children in migration](#)
- [EU Guidelines for the Promotion and Protection of the Rights of the Child \(2017\)](#)
- [The EU Guidelines on children and armed conflict \(2008\)](#)

The European Commission adopted in 2015 the Policy Brief on [Children's involvement in criminal, civil and administrative judicial proceedings in the 28 Member States of the EU](#).

The EU institutions are themselves active in conducting research, encouraging changes in practice and the application of these directives, through the **EU Fundamental Rights Agency** which has developed several tools in this area such as:

- [Report "Child Friendly Justice - Perspectives and experiences of professionals on children's participation in civil and criminal judicial proceedings in 10 EU Member States" \(2015\)](#)
- [Handbook on European law relating to the rights of the child \(2022\)](#)
- [Handbook on European law relating to Access to Justice \(2016\)](#)
- [Handbook on guardianship for children deprived of parental care \(2014\)](#)

### 2.2.1.2 Provisions of EU instruments relating to child friendly justice classified by specific topics

This section suggests specific EU provisions relating to justice for children. It is organised by topic in order to provide a quick overview of the European framework for each specific issue. This list of topics is not exhaustive, but provides a general idea of the variety of subtopics embedded in child friendly justice. This section will be complemented as needed in future versions of the handbook.

#### Asylum & Migration

##### **Entry and residence**

TFEU, Article 21 Charter of Fundamental Rights, Article 7 (family life), Article 45 (freedom of movement); Freedom of Movement Directive (2004/38/EC); Asylum Procedures Directive (2013/32/EU); Dublin Regulation (No. 604/2013); Schengen Borders Code Regulation (562/2006), Annex VII, 6

##### **Age assessment**

Asylum Procedures Directive (2013/32/EU), Article 25(5)

**Reunification and separated children**

Family Reunification Directive (2003/86/EC); Qualification Directive (2011/95/EU), Article 31; Reception Conditions Directive (2013/33/EU); Temporary Protection Directive (2001/55/EC); Dublin Regulation (No. 604/2013)

**Detention**

Reception Conditions Directive (2013/33/EU), Article 11 Return Directive (2008/115/EC), Article 17

**Expulsion**

Freedom of Movement Directive (2004/38/EC), Preamble (para. 24), Articles 7, 12, 13 and 28 (3) (b) ; TFEU, Article 20 Return Directive (2008/115/EC) ; Dublin Regulation (No. 604/2013)

**Access to justice**

Charter of Fundamental Rights, Articles 47–48 (right to an effective remedy and to a fair trial, presumption of innocence and right of defence); Dublin Regulation (No. 604/2013); Qualification Directive (2011/95/ EU), Article 31; Asylum Procedures Directive (2013/32/EU), Articles 7 and 25; Victims' Rights Directive (2012/29/EU), Article 8

**Criminal justice & alternative proceedings****Fair trial guarantees**

Charter of Fundamental Rights, Articles 47 (right to an effective remedy and to fair trial), 48 (presumption of innocence and right of defence) and 49 (principles of legality and proportionality of criminal offences and penalties); Right to Interpretation and Translation Directive (2010/64/EU); Right to Information Directive (2012/13/EU); Access to a Lawyer Directive (2013/48/EU); Procedural Safeguards Directive (2016/800)

**Detention**

Charter of Fundamental Rights, Articles 4 (prohibition of torture, inhuman or degrading treatment) and 6 (right to liberty); Procedural Safeguards Directive (2016/800)

**Witnesses and victims**

Victims' Rights Directive (2012/29/EU); Child Sexual Abuse Directive (2011/93/EU) Human Trafficking Directive (2011/36/EU) (include unaccompanied children)

## Non discrimination

- EU, European Commission (2020), A union of equality: EU Roma strategic framework for equality, inclusion and participation
- Communication of European Commission (2020) 620 final, 7 October 2020
- EU, European Commission (2020), Union of equality: LGBTIQ equality strategy 2020–2025
- Communication of European Commission (2020) 698 final, 12 November 2020
- EU, European Commission (2021), Report from the Commission to the European Parliament and the Council on the application of Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('the Racial Equality Directive') and of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation
- Communication of European Commission (2021) 139 final, 19 March 2021
- FRA (2016), Second European Union Minorities and Discrimination Survey: Roma – Selected findings, Luxembourg, Publications Office, 29 November 2016. FRA (2017), Second European Union Minorities and Discrimination Survey – Main results, Luxembourg, 6 December 2017
- FRA (2020), A long way to go for LGBTI equality, Luxembourg, 14 May 2020
- FRA and ECtHR (2018), Handbook on European non-discrimination law, Luxembourg, 21 March 2018

## Family procedures

- Charter of Fundamental Rights, Article 24 (3) on the right to maintain contact with both parents
- Procedural Safeguards for Children Directive (2016/800)
- [Mediation Directive \(2008/52/EC\)](#)
- [Directive \(2003/8/EC\)](#) on access to justice in cross-border disputes
- [Brussels I Regulation \(44/2001\)](#) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters
- [Brussels IIter \(2019/1111\)](#) on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast)

## 2.2.2 Council of Europe

### 2.2.2.1 Overview of CoE instruments related to child friendly justice

**The Council of Europe** has published key resources and instruments on child friendly justice. These aim at improving the justice system and adapting it to the specific needs of children.

The lead resource are the [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice \(2011\)](#). These non-binding guidelines are a practical tool based on existing international and European standards which Member States are encouraged to use as a basis for their law reform on child friendly justice. They contain key definitions and principles on this field, such as participation, best interests of the child, dignity, protection from discrimination and rule of law. They include a child rights frameworks for after, during and before judicial proceedings.

The main **international conventions** of the Council of Europe applicable to child-friendly justice are:

- [Convention on Protection of children against sexual exploitation and sexual abuse \(the Lanzarote Convention\) \(2014\)](#)
- [Convention on Contact concerning Children \(2003\)](#)
- [European Convention on the Exercise of Children's Rights \(1996\)](#)
- [European Convention for the Protection of Human Rights and Fundamental Freedoms \(commonly known as the European Convention on Human Rights - ECHR\) \(1950\)](#)

Other **international instruments** are relevant when addressing child friendly justice:

- [European Social Charter \(revised\) \(ESC\) \(1996\)](#)
- [Framework Convention for the Protection of National Minorities \(1995\)](#)
- [European Convention for the Protection of Torture and Inhuman or Degrading Treatment or Punishment \(1989\)](#)
- [European Convention on the Legal Status of Migrant Workers \(1983\)](#)

An extensive set of standards are contained in:

- [The CoE Strategy on the Rights of the Child \(2022-2027\) \(chapter 2.4 on CFJ\)](#)
- [Annual GRETA report for 2021 on Action against Trafficking in Human Beings \(2022\)](#)

- [Venice Declaration on the Role of Restorative Justice in Criminal Matters \(2021\)](#)
- [A study of immigration detention practices and the use of alternatives to immigration detention of children \(2017\)](#)
- [Report on Child-friendly juvenile justice: from rhetoric to reality \(2014\)](#)
- [European Rules for juvenile offenders subject to sanctions or measures \(2009\)](#)
- [Guidelines for a better implementation of the existing recommendation concerning mediation in penal matters CPEJ \(2007\)](#)

**The Committee of Ministers of the Council** adopted various recommendations for Member States relating to child friendly justice. The recommendation is a non-binding instrument and it applies on matters for which the Committee has agreed “a common policy”. Article 15.b) of the [Statute of the Council of Europe](#) permits the Committee to ask member governments “to inform it of the action taken by them” in regard to recommendations.

- [Recommendation CM/Rec \(2022\)17](#) on protecting the rights of migrant, refugee and asylum-seeking women and girls
- [Recommendation CM/Rec \(2019\)11](#) on effective guardian for unaccompanied and separated children in the context of migration
- [Recommendation CM/Rec \(2018\)5](#) concerning children of imprisoned parents
- [Recommendation CM/Rec \(2016\)7](#) on young people’s access to rights
- [Recommendation CM/Rec \(2012\)2](#) on the participation of children and young people under the age of 18
- [Recommendation CM/Rec \(2011\)12](#) on children’s rights and social services friendly to children and families
- [Recommendation CM/Rec \(2008\)11](#) on the European Rules for juvenile offenders subject to sanctions or measures
- [Recommendation Rec \(2005\)5](#) concerning the rights of children living in institution
- [Recommendation Rec \(2003\)20](#) concerning new ways of dealing with juvenile delinquency and the role of juvenile justice
- [Recommendation n° R \(88\)6](#) on social reactions to the delinquent behaviour of young people from migrant families
- [Recommendation n° R \(87\)20](#) on social reactions to juvenile delinquency among young people coming from migrant families

- [Recommendation n° R \(79\)17](#) concerning the protection of children against ill-treatment

More generally, various recommendations were adopted in the context of the efforts following the Rome Conference 2000 to improve the efficiency of the Convention System; they are also applicable to children:

- [Recommendation CM/Rec \(2021\)2](#) on measures against the trade in goods used for the death penalty, torture and other cruel, inhuman or degrading treatment or punishment
- [Recommendation CM/Rec \(2018\)8](#) on restorative justice in criminal matters
- [Recommendation Rec \(2006\)2](#) on European penitentiary rules
- [Recommendation Rec \(2004\)10](#) on the protection of human rights and the dignity of people with mental disorders
- [Recommendation Rec \(2004\)5](#) on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights
- [Recommendation Rec \(2001\)10](#) on the European Code of Police Ethics
- [Recommendation Rec \(2000\)20](#) on role of early psychosocial intervention in the prevention of criminality
- [Recommendation n° R \(93\)1](#) on effective access to the law and to justice for the very poor
- [Recommendation n° R \(89\)12](#) on education in prison
- [Recommendation n° R \(81\) 16](#) on the harmonisation of national procedures relating to asylum
- [Recommendation n° R \(81\)7](#) on measures facilitating access to justice

### 2.2.2.2 Provisions of CoE instruments related to child friendly justice classified by specific topics

This section offers a selection of specific provisions from the above-mentioned legal instruments, applicable to child friendly justice, organised by topic of interest. They give an idea of the influence of international instruments on child friendly justice. This list is not exhaustive, and other areas could certainly be found to complement this Handbook in future versions.

## Asylum & Migration

- **Entry and residence:** ECHR, Article 8 (family life); ESC, Article 19
- **Age assessment:** ECHR, Article 8 (private life)
- **Reunification and separated children:** ECHR, Article 8 (right to respect for private and family life)
- **Detention (overall):** ECHR, Article 5 (right to liberty)
- **Expulsion:** ECHR, Article 8 (right to respect for private and family life)
- **Access to justice:** ECHR, Article 13 (right to an effective remedy)

## Criminal justice & alternative proceedings

- **Fair trial guarantees:** ECHR, Article 6 (fair trial); ESC, Article 17 Lanzarote Convention
- **Detention:** ECHR, Articles 3 (prohibition of torture, inhuman or degrading treatment) and 5 (right to liberty); ESC, Article 17 European Convention for the Protection of Torture and Inhuman or Degrading Treatment of Punishment
- **Witnesses and victims:** ECHR, Articles 3 (prohibition of torture, inhuman or degrading treatment) and 8 (private life); Lanzarote Convention, Article 31

## Non-discrimination

Council of Europe (2014), LGBTI children have the right to safety and equality, Human Rights Comment by the Council of Europe Commissioner for Human Rights, 2 October 2014; Council of Europe, Advisory Committee on the FCNM (2006), Commentary on education under the Framework Convention for the Protection of National Minorities, ACFC/25DOC (2006)002, 2 March 2006

## Family procedures

ECHR, Article 8 (right to respect for family life); Convention on Contact concerning Children, Article 1; European Convention on the Exercise of Children's Rights, Article 6

## 2.3 Selection of European case law relating to child friendly justice

The two institutions that develop European case law are the CJEU and the ECtHR. In this section, the main judgments of these courts are listed by topic on child friendly justice. While this list is not exhaustive, it gives the reader an overview of the influence of case law on child friendly justice.

### Access to justice

How child rights principles and child specific provisions in EU law have been interpreted in the regional European Courts judgements.

- The case concerned the conditions under which an Afghan child, who had entered Greece illegally, was detained in the Pagani detention centre on the island of Lesbos and subsequently released for deportation. In this context, the Court found a violation of Article 3 (prohibition of inhuman or degrading treatment), Article 13 (right to an effective remedy) and Articles 5 § 1 and 4 (right to liberty and security) of the ECHR: *ECtHR, Rahimi v. Greece, No. 8687/08, 5/04/2011*
- The case concerns the interpretation of Article 6 of Regulation 343/2003 where an unaccompanied child makes more than one application for asylum in two Member States and has no family members present on the territory of the Member States. In such circumstances, the CJEU has ruled that the Member State responsible is the one in which the child is present after having applied for asylum there: *CJEU, MA and Others v. UK, Case C - 648/11*

### Asylum & Migration

#### Entry and residence

- The European Committee of the Regions on EU regions and cities “stresses that many Ukrainian refugees are particularly vulnerable and that about half of them are children”, “supports a «Child Protection Package» for Ukrainian refugee children”, “calls for strong measures to prevent human trafficking, as the majority of those fleeing Ukraine are women and children and human rights reports have shown an increase in cases where they are targeted and exploited by organised crime groups, including for sexual and labour exploitation”: *Resolution of the European Committee of the Regions on EU regions and cities, Support of Ukraine, 2022/C 301/01, 5 August 2022*



## Detention

- An unaccompanied five-year old Congolese national was detain by the Belgian Government at a transit centre for adult, for two months, where he was victim of inhuman or degrading treatment. The Court held that there had been a violation of Article 3, finding that the detention had demonstrated a lack of humanity and amounted to inhuman treatment: *ECTHR, Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, No 13178/03, 12 October 2006; *ECTHR, Abdullahi Elmi and Aweys Abubakar v. Malta*, 25794/13 and 28151/13, 22 November 2016; *ECTHR, H.A. and Others v. Greece*, No 19951/16, 28 February 2019.
- The conditions of detention of an unaccompanied child at the time of his arrest were analysed by the Court and it also held that there had been a violation of Article 13 taken in conjunction with Article 3: *ECTHR, Mohamad v. Greece*, No. 70586/11 11 December 2014.
- The Court replied that the Article 5, par. 1, Article 5, par. 4, Article 8 of the ECHR taken in conjunction with Article 4 of Protocol No. 4 when the conditions of detention of two Comorian children, apprehended when they unlawfully entered French territory in Mayotte. They were placed in administrative detention together with adults, arbitrarily associated with one of them for administrative purposes, and expeditiously returned to the Comoros without a careful and individual examination of their situation: *ECTHR, Moustahi v. France*, No 9347/14, 25 June 2020.

## Reunification & separated children

- The Court replied that Article 27 of the Dublin III Regulation, read in conjunction with Articles 7, 24 and 47 of the Charter of Fundamental Rights of the European Union, does indeed require that the unaccompanied child be given the right to judicial review of the decision to refuse to take charge. However, the child's relative does not have such a right of appeal: *CJEU, C-19/21*, 1 August 2022.
- The refusal to issue a national visa for the purposes of family reunification to the parent of an unaccompanied refugee child, which has become an adult during this procedure, is contrary to EU law: *CJEU, C-273/20, C-355/20, C-279/20*, 1 August 2022.
- An international protection application lodged by a child under the age of 18 cannot be rejected as inadmissible on the grounds that his/her parents have already been granted such protection in another Member State, under the Dublin III Regulation: *CJEU, C-720/20*, 1 August 2022.

## Participation

- The Court establishes for the first time, building on its earlier ECtHR, *Stanford v. the United Kingdom*, No 16757/90, 23 February 1994, a close link between the child’s right to understand and participate in his or her proceedings and the imposition of certain limits on the public nature and publicity surrounding the trial, as permitted by Article 6 in criminal trials: *ECtHR, T. v. UK [GC]*, No 24724/94, 16 December 1999.

## Access to a lawyer

- The ECtHR considers that access to a lawyer is one of the fundamental elements of the right to a fair trial. The Court condemns a Member State for depriving a child in conflict with the law of the assistance of a lawyer while in police custody: *ECtHR, Salduz v. Turkey [GC]*, No. 36391/02, 27 November 2008, para. 51; *ECtHR, Ibrahim and Others v. the United Kingdom [GC]*, Nos. 50541/08 et al., 13 September 2016. In this case, a confession made before the police by a child who had been denied access to a lawyer was produced as evidence: *ECtHR, Adamkiewicz c. Pologne*, No 54729/00, par. 70 and 89, 2 March 2010; *ECtHR, Beuze v. Belgium*, No. 71409/10, 9 November 2018.
- The ECtHR’s consideration of whether an applicant has had effective access to a lawyer is stricter in cases involving children: *ECtHR, Salduz v. Turkey [GC]*, No. 36391/02, 27 November 2008, para. 60; *ECSR, International Commission of Jurists (ICJ) v. Czech Republic, Complaint No. 148/2017*, 20 October 2020.

## Detention

- Pre-trial detention: A person charged with an offence must always be released pending trial, unless the State can show that there are «relevant and sufficient» reasons for continued detention: *ECtHR, Smirnova v. Russia*, Nos. 46133/99 and 48183/99, 24 July 2003, para. 58
- The standards for demonstrating the need for detention under Article 5 are higher than in the case of adults. The ECtHR has confirmed that pre-trial detention of children should only be used as a last resort and for the shortest possible time. However, where detention is strictly necessary, children should always be separated from adults: *ECtHR, Nart v. Turkey*, No. 20817/04, 6 May 2008.
- The ECtHR requires State authorities to pay particular attention to the age of the child when balancing the arguments for and against pre-trial detention, which should only be used as a last resort and for the shortest possible time: *ECtHR, Korneykova v. Ukraine*, No. 39884/05, 19 January 2012, paras. 43–44, *ECtHR, Selçuk v. Turkey*, No. 21768/02, 10 January 2006, paras. 35–36; *ECtHR, J.M. v. Denmark*, No. 34421/09, 13 November 2012, par. 63.

- The ECtHR has held that, in the context of the detention of children, the concept of «educational control» should not be equated strictly with notions of classroom teaching: *ECtHR, D.G. v. Ireland, No. 39474/98, 16 May 2002*
- On conditions of detention, the ECtHR has ruled that detaining children with adults can result in a violation of Article 3 of the ECHR: *ECtHR, Güveç v. Turkey, No. 70337/01, 20 January 2009*. In the case of the detention of an unaccompanied minor in a centre for adults, the Court recalls the «principle of presumption of minority applicable to unaccompanied migrants»: *ECtHR, Darboe and Camara v. Italy, No 5797/17, 21 July 2022*

### Protection of child victims and witness

- “However, independently of whether a victim’s minority is as a general rule sufficient to classify such a victim as particularly vulnerable within the meaning of the Framework Decision, it cannot be denied that where, as in this case, young children claim to have been maltreated – and maltreated, moreover, by a teacher – those children are suitable for such classification, having regard in particular to their age and to the nature and consequences of the offences of which they consider themselves to be a victim”. Then, the CJEU has ruled that all measures concerning the protection and prevention of secondary victimisation must be designed in such a way that the defendant always receives a fair trial: *CJEU, C-105/03, Criminal proceedings against Maria Pupino [GC], 16 June 2005*.

### Torture and ill-treatment

- The ECtHR takes particular account of the vulnerability of children when determining whether treatment can be described as inhuman or degrading treatment in ECtHR, 29175/04, *Dushka v. Ukraine*, 3 May 2011. Moreover, the ECtHR explains it in particular with regard to police violence in these terms «(...) police officers must, if they are in contact with children, take account of their particular vulnerability and that conduct on their part with regard to children may, by the mere fact that they are children, be incompatible with the requirements of Article 3 of the Convention even though it might be considered acceptable if it were directed at adults.»: *ECtHR, Bouyid v. Belgium [GC], 28 September 2015, par. 101*.

### Family procedures

- The CJEU ruled that an EU Member State must issue an identity card or passport without requiring the prior establishment of a birth certificate by its national authorities. It must also recognise the document that the host Member State that permits that child to exercise, with each of the same sex parents, the child’s right to move and reside freely within the EU territory: *CJEU, C-490/20, B.M.A. against Stolichna obshtina, 2 October 2020*.

- Furthermore, it complements the position of the Court in *CJEU, C-673/16, Coman and Others [GC]*, 5 June 2018 in which it was clarified that there is an obligation under EU law to recognise the indirect right of residence, under article 21 TFEU, of the spouse from a same-sex marriage.
- In *CJEU, C-572/21*, 14 July 2022, a court of a Member State (Sweden) shall not have jurisdiction to give judgment in matters of child custody on the basis of the Brussels IIa Regulation 1 where the child’s habitual residence has been lawfully transferred, in the course of the proceedings, to the territory of a third State which is party to the 1996 Hague Convention (Russia).
- The Court has held that the continuous and long-term non communication between the parent and daughter is not sufficient to create a stable relationship to be included in Article 8 of the Convention on the protection of family life: *ECtHR, Katsikeros v. Greece*, No 2303/19, 21 July 2022.

# 03

## AGENDAS & OPPORTUNITIES AT EUROPEAN LEVEL ON CHILD FRIENDLY JUSTICE



This section presents recent developments at European level on child friendly justice and an analysis of the agendas and opportunities within the institutions of the Council of Europe and the European Union. Advocacy efforts could therefore be organised around and according to the themes and meetings planned by the various bodies and agencies.

## 3.1 2022 Highlights

Four important updates are at the heart of child friendly justice issues at European level in 2022.

1. On 8 March 2022, the European Commission submitted to the European Parliament and the Council of the European Union [a proposal for a directive on combating violence against women and domestic violence](#). Article 24 of the Charter of Fundamental Rights of the European Union and Article 83.1 of the TFEU are the two fundamental legal bases with regard to children in this draft directive Article 83.1 TFEU provides the legal basis for minimum rules on the definition of criminal offences and sanctions related to the sexual exploitation of women and children and computer-related crime. Thus, the draft proposes to recognise child witnesses as direct victims of violence against women and domestic violence, providing for specific measures to protect and assist children and ensuring treatment in the best interests of the child. Chapter 3 of the draft directive includes access to justice, as far as children are concerned, it is established that they will be able to easily report offences and, these provisions also ensure that undocumented persons and those with uncertain residency status are not afraid to report violence.

2. On 21 June 2022, the FRA published a [report on the practical implementation of the Procedural Safeguards for Children Directive](#) (2016/800) focusing on nine Member States: Austria, Belgium, Bulgaria, Germany, Estonia, Italy, Malta, Poland and Portugal. This report provides evidence-based recommendations to help policymakers and practitioners, at both EU and Member State levels, assess the application of the directive. The report concludes that there are still major gaps in law and practice concerning implementing the safeguards for suspected or accused children provided for by EU law.

3. The [EU Pact on Migration and Asylum](#) is a policy document that sets out the EU's agenda on migration for the years to come and a package of legislative proposals and recommendations. The Pact was presented by the European

Commission in September 2020, with the purpose of “providing a comprehensive approach, bringing together policy in the areas of migration, asylum, integration and border management”. It is a project to reform the European migration policy that was essentially put in place before the 2015 crisis. It comes after the failure of the «Asylum Package» negotiations initiated in 2016. The Council Presidency and the EU Parliament formalised a commitment to adopt the ‘Pact on Migration and Asylum’ texts by February 2024.

4. From 4 to 6 July 2022, the Steering Committee for the Rights of the Child (CDENF) held its first meeting in a new Strategy cycle to launch the implementation phase of the [new Council of Europe Strategy for the Rights of the Child](#) (2022-2027), by kicking off activities on children’s mental health, artificial intelligence and children’s rights, and children as human rights defenders.

## 3.2 2022-2023 institutional agendas

- European agencies, bodies and Committees have organised or will organise events in 2022 relevant for child friendly justice:
  - 15 September 2022: 2nd meeting on the [European Committee on Legal Co-operation \(CDCJ\)](#) working group on migration (CDCJ-MIG) on the elaboration of the draft **practical Handbook on administrative detention**.
  - 27-29 September 2022: [EU Forum on the rights of the child](#), dedicated to **“Bringing children at the centre: Empowering, protecting and including children”**. As the first forum since the adoption of the EU Strategy on the rights of the child in March 2021, it will give the opportunity of monitoring and reporting on progress made under the EU Strategy, while exchanging on new developments and initiatives. A special focus will be given to child participation, children in conflicts, prevention from violence, with a specific attention to consult on integrated child protection. The impact on children’s rights of the Russian aggression against Ukraine, and the EU child protection response will also be discussed.
  - 3-4 October 2022: [6th meeting of the CoE Committee of Experts](#) on **the rights and the best interests of the child** in parental separation and in care proceedings, under the Irish Chairmanship and the Working Group CJ/ENF-ISE. This Conference is organised by the Department of Children, Equality,

Disability, Integration and Youth in close collaboration with the Council of Europe and the Department of Justice. The Conference objective is to examine how to determine and promote the rights, voice and best interests of the child and young person in the context of parental separation and in care proceedings.

- 4-6 October 2022: [Autumn Session](#) of the **CoE Conference of INGOs**.
- 15-17 November 2022: Next **CoE [Steering Committee on the Rights of the Child \(CDENF\)](#)** Plenary meeting.
- In the framework of the reporting procedure of the Revised European Social Charter and the 1961 Charter, the European Committee of Social Rights invited its States Parties to report on the rights of children, families and migrants relating to the provisions belonging to the thematic group 4 “children, families and migrants”. Third party organisations such as trade unions, employers’ organisations, NGOs, national human rights institutions, and national equality bodies can [submit additional information](#) to the Committee **by 30 June 2023**.
- The next EU Council Presidencies will be:
  - January/June 2023 - Sweden
  - July/December 2023 - Spain
  - January/June 2024 - Belgium



# NOTES

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